

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)	
Checrallah KACHOUH)	Group Art Unit: 3676
Serial No. 10/727,562)	Examiner: Gary W. Estremsky
Filed: December 5, 2003)	Confirmation No. 7991
For: MOTOR VEHICLE DOOR LOCK)	

**PETITION UNDER 37 CFR § 1.181 FOR
WITHDRAWAL OF PREMATURE FINALITY**

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

An Office Action was mailed February 15, 2006, in connection with the above-identified patent application in which it was indicated that claims 11 and 12 were rejected based upon newly-cited prior art. However, in the preceding Office Action claims 11 and 12 were indicated to contain allowable subject matter, and since no amendments were made to claims 11 and 12 in the preceding Office Action, the citation of new prior art with respect to the feature of these claims could not have been necessitated by any action by applicant, so that was improper for the Examiner to make his Action final while rejecting these previously allowable claims for the first time based on newly cited prior art. In this regard, the Examiner's attention was directed to MPEP § 706.07(a) which states that: "a second or any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art, ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art."

A request for withdrawal of the premature final rejection was filed on February 21, 2006, and when it had not been acted upon by the date for response to the final rejection, the request was renewed in applicant's response to the February 15th Office Action filed May 15, 2006. In an Advisory Action mailed May 24, 2006, the Examiner refused to withdraw the finality of his February 15, 2006, Office Action and refused to enter applicant's May 15th Amendment. In taking this Action, the Examiner has contended that, since the independent

claim from which claims 11 and 12 were dependent had been amended, claims 11 and 12, in effect, had been amended so that it was proper for him to cited new art relative to these claims and still make his Office Action final.

However, claims 11 and 12 cited a feature that is not present in claim 1, and thus, not affected by the amendments to claim 1 and the newly cited prior art, if applicable to claims 11 and 12 as finally rejected would have been equally applicable to these claims in their form as found to contain allowable by the Examiner dependent from unamended claim 1. Thus, it is submitted that the rejection of previously allowed claims by the Examiner based on new prior is not justifiable and is contrary to established USPTO policy. Accordingly, favorable action on this Petition is hereby requested.

Since the issue of whether or not finality of the February 15, 2006, was proper affects whether or not applicant's May 15, 2006, will be entered or an appeal or request for continued examiner needs to be filed, and whether or not extensions of time are now required, and given the impending one month extension of time due date of June 15, 2006, a prompt decision on this petition is respectfully requested.

Respectfully submitted,



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